

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT G. WYCKOFF	)	CIVIL ACTION NO. 00-2286
	)	
Plaintiff,	)	DONETTA W. AMBROSE
	)	
v.	)	CHIEF JUDGE
	)	
METROPOLITAN LIFE	)	
INSURANCE COMPANY	)	
AND KENNETH F. KACZMAREK	)	
	)	
Defendants.	)	

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**PLAINTIFF'S PRE-TRIAL STATEMENT**

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And Now Comes the Plaintiff, Robert G. Wyckoff by and through his attorneys, Kenneth R. Behrend file the following Plaintiff's Pre-Trial Statement:

**SUMMARY OF THE CASE**

On or about February 23, 2000, Appellant Robert Wyckoff commenced this action by filing a Writ of Summons in the Court of Common Pleas of Westmoreland County, Pennsylvania. Defendants removed the action to the United States District Court for the Western District of Pennsylvania on November 12, 2000.

Plaintiff's claims arose from Defendants' misrepresentations made at the time of sale concerning material terms of MetLife whole life policies sold to Plaintiff in 1991 and in 1994.

Robert Wyckoff graduated from Braddock high school in 1945. Thereafter, Mr. Wyckoff enlisted in the Army Air Corps where he worked as a mechanic. After his discharge from the Army Air Corps, Mr. Wyckoff went to work as an apprentice machinist with U.S. Steel. While Mr. Wyckoff took several classes to further his career as a machinist with U.S. Steel, he never studied

any courses which involved finance or investment of any kind. In fact, Mr. Wyckoff possesses extremely limited knowledge regarding investment products. In fact, his largest investment holdings is stock issued through his employer U.S. Steel and a one time purchase of stock in a company associated with "Rockwell" he purchased through a broker.

In 1991, Plaintiff was approached by Metropolitan Life Insurance Company ("MetLife") Agent Norman Molchan. During this meeting Agent Molchan informed Plaintiff that Plaintiff could purchase a \$10,000 policy from MLIC if Plaintiff made out-of-pocket premium payments for a period of 14 years. Agent Molchan reinforced this representation by showing Plaintiff "forms" which demonstrated that out-of-pocket premium payments would only be required for 14 years. This illustration also showed that, in twenty years, a \$10,000.00 face amount policy would have a cash value of \$7,746.00, with a death benefit of \$12,112.00.

The 1991 Policy was originally sold with a \$59.40 monthly premium, with William Wyckoff classified as a non-smoker. However, a medical examination revealed nicotine in his urine and Robert Wyckoff was re-classified as a smoker, resulting in a higher premium of \$73.20 per month. Mr. Wyckoff did not contest this premium change.

Mr. Wyckoff believed that he would still have to pay for only thirteen or fourteen years.

Mr. Wyckoff purchased Policy No. 915 409 338 M, dated June 27, 1991, a \$10,000.00 face amount Whole Life policy with an automatic premium loan provision. Mr. Wyckoff never reviewed the policy delivered to him and no MetLife representative ever instructed him to do so. In fact, it is Mr. Wyckoff's testimony that the policy was delivered to him in a "sleeve".

William Wyckoff has consistently paid the \$73.20 premium from the policy's inception to the present by the check-o-matic arrangement.

In 1994 Plaintiff contacted MetLife as he was interested in supplementing insurance coverage he was losing which had been provided through his employer U.S. Steel. Plaintiff was subsequently approached by Defendant Agent Kenneth Kaczmarek. Using the same sales techniques detailed above, Kaczmarek represented to the Plaintiff that, Plaintiff could purchase a \$4,500 Face Amount Whole life Policy from MetLife if Plaintiff agreed to pay premiums for ten years.

The sale of Mr. Wyckoff's policies was consistent with a widespread scheme to sell life insurance policies that accumulate dividends and/or interest to new and existing policy holders through false and misleading policy illustrations and related documents. MetLife did so despite knowledge that this was both a confusing, misleading concept and that the policies would never perform and be paid-up as represented at the time of sale.

#### **EXHIBITS**

1. Computer prepared illustration for Policy No. 915 409 338 M that indicated a thirteen or fourteen year vanishing premium arrangement (Bates No. RGW000004-5);
2. Metropolitan Life Policy No. 915 409 338 M, dated June 27, 1991, a \$10,000.00 face amount Whole Life policy with an automatic premium loan provision (Bates No. RGW000017-37);
3. Letter dated August 7, 1991, from Metropolitan Life to Robert Wyckoff welcoming Mr. Wyckoff to the check-o-matic arrangement for Policy No. 915-409-338-M for the premium of \$73.20 (Bates No. RGW0000010);
4. Audio tapes of William Wyckoff's Deposition;
5. Metropolitan Life Whole Life Policy No. 945-600-948-M in the amount of \$4,500.00 dated August 2, 1994 insuring the life of William G. Wyckoff (Bates No. RGW000001-16);
6. Letter from Ted Athanassiades, President and Chief Operating Officer of

Metropolitan Life to Robert Wyckoff thanking him on behalf of the MetLife family of companies and representative Kenneth Kaczmarek for choosing MetLife to help him meet his insurance and other financial services needs. (Bates No. RGW 000043);

7. Metropolitan Life Illustration prepared on July 29, 1994 for Policy No. 945-600-948-M; (Bates No. RGW000047);

8. Robert G. Wyckoff's check no. 0780 dated June 24, 1991, in the amount of \$59.40 payable to MetLife, marked in memo line as 1<sup>st</sup> Insurance Payment; (Bates No. RGW000053);

9. Letter from Metropolitan Life dated July 31, 1991 to Robert Wyckoff regarding premium change; (Bates No. RGW000002-4);

10. Letter from Manager, Check-O-Matic Section of Metropolitan Life dated August 7, 1991, to Mr. Wyckoff welcoming him to the Check-O-Matic Arrangement and notifying him that the first check to be drawn will be dated August 12, 1991 in the amount of \$73.20 for Policy No. 915-409-338-M); RGW000052);

11. Metropolitan Life Disclosure statement; (Bates No. MP246100083-84);

12. Metropolitan Life Payment History for Policy No. 945-600-948-M; (Bates No. MP24610000086-120);

13. Personnel File of Norman E. Molchan; (Bates No. MP4011056409-18);

14. Personnel File of Norman E. Molchan; (Bates No. MP4011063063-281);

15. Personnel File of Kenneth Kaczmarek;

16. Deposition Transcript of William Wyckoff and all exhibits attached thereto;

17. Deposition Transcript of Kenneth Kaczmarek, Sr. and all exhibits attached thereto;

18. Account Representative Inquiry; (Bates No. Fantaski-MP2372000533);

19. Consumer Complaints against Kenneth Kaczmarek, Sr.; (Bates No. MP4011112753-13019);
20. Audit of Monroeville Branch, Metropolitan Life Office; (Bates No. MLPH3042281-2345);
21. Indemnity Agreement between Kenneth Kaczmarek, Sr. and Metropolitan Life; (Bates No. MP24610000348-351)
22. Kenneth Kaczmarek, Sr.'s Retired Representative Agreement with Metropolitan Life; (Bates No. MP2461001995-2032);
23. Kenneth Kaczmarek, Sr.'s file on William Wyckoff; (Bates No. MP2461001978-1994);
24. Deposition Transcript of Rebecca H. Greene, dated July 13, 1999, and all exhibits attached thereto; (Bates No. MP4011003244-3498);
25. Deposition Transcript of David A. Levene, dated July 28, 1999, and all exhibits attached thereto; (Bates No. MP4011003919-4303);
26. Deposition Transcript of Michael Levine, dated July 22, 1999, and all exhibits attached thereto; (Bates No. 4011003499-3918);
27. Deposition transcript of Rebecca H. Greene, dated July 25, 2002, and all exhibits attached thereto in the case captioned Hazen v. Metropolitan Life Insurance Company in the Court of Common Pleas of Delaware County, Pennsylvania Civil Division No. 95-13087;
28. Deposition Transcript of Harry Kamen dated August 2, 2002 in the case captioned Hazen v. Metropolitan Life Insurance Company in the Court of Common Pleas of Delaware County, Pennsylvania Civil Division No. 95-13087, and all exhibits thereto.

29. Deposition Transcript of Harry Kamen dated November 2, 2002 in the case captioned Hazen v. Metropolitan Life Insurance Company in the Court of Common Pleas of Delaware County, Pennsylvania Civil Division No. 95-13087, and all exhibits thereto.

30. Transcript of Ted Athanassiades and Exhibits dated July 26, 2002 in the case captioned Hazen v. Metropolitan Life Insurance Company in the Court of Common Pleas of Delaware County, Pennsylvania Civil Division No. 95-13087, and all exhibits thereto.;

31. Deposition Transcript of Theodossios Athanassiades Exhibit 3 (Transcript pages from James K. Higgins v. MetLife, et al.)(Bates No. MP4011071494-MP4011071589, Exhibits (MP4011109466-MP4011111184)

32. Deposition Transcript of Crosby Engel and Exhibits dated April 30, 2003 in the case of Ihnat v. Metropolitan Life, in the Court of Common Pleas of Allegheny County, Pennsylvania, GD 94-17465;

33. Deposition Transcript of Wilhelmenia Taylor in Ihnat v. Metropolitan Life Insurance Company, et al. dated September 26, 2002 and all exhibits attached thereto;

34. Deposition Transcript of Wilhelmenia Taylor dated October 1, 2002 and exhibits in Ihnat v. Metropolitan Life Insurance Company, et al..

35. Deposition Transcript of Gould dated August 20 and 21, 2002 in the case of Ihnat v. Metropolitan Life; in the Court of Common Pleas of Allegheny County, Pennsylvania GD94-17465 and all exhibits attached thereto;

36. Deposition Transcript of Theodosios Athanasiades, and all exhibits attached thereto dated July 26, 2002 in the case captioned Hazen v. Metropolitan Life Insurance Company, in the Court of Common Pleas of Delaware County, Pennsylvania Civil Division 95-13087;

37. Deposition Transcript of James L. Rayl in James L. Rayl vs. Metropolitan Life Insurance Co., Inc. taken on February 25, 1998 - bates MP4011069546 through MP4011071493 including exhibits 1 through 54;

38. Deposition of James L. Rayl and all exhibits attached thereto, in James L. Rayl vs. Metropolitan Life Insurance Co., Inc. taken on April 13, 1998 - bates MP4011050061 through MP4011050078 including exhibits 55 through 58 - bates MP4011103537 through MP4011103564;

39. Pennsylvania Sales Practices Guide; (Bates No. MP0004002744);

40. Letter dated November 7, 1992 to Thomas LaBadia, re: Reappearing UL premiums from Jim Rayl; (Bates No. MP4011071046-7)

Memorandum from Barbara Timpano (Bates No. M069700330372-378)

41. Handwritten note, Re: Accelerated Payment Plan - Bates MP4011149698"

42. Documents Concerning Short Term Pay. Plan Illus. (APP) dated 2/4/80 - Bates MP4011149715 - MP4011149726

43. Documents Concerning the APP dated 6/9/80 - Bates MP4011149687 - MP4011149692

44. Memo Regarding Insert for APP dated 6/19/80 - Bates MP4011149681 - MP4011149681;

45. Release to Field force dated 8/20/80, re: Accelerated Payment Plan (APP) - Bates M109749230416 - M109749230417;

46. Publication Met Up-to-date 1980-4 = The Accelerated Payment Plan (APP) - Bates M109758200153 - M109758200160;

47. Re: Sales and Service Release - Accelerated Payment Plan - dated 12/12/80 - Bates

M089716241756 - M089716241757;

48. The Accelerated Payment Plan brochure date 04/1981 - Bates M129770180954 - M129770180956;

49. Re: Personal Life Insurance --Jan 1984 Portfolio Revisions- Life Paid-Up 95 - to Field Force from J.P. Maurer dated 12/15/83 = L95 developed for use in accelerated payment (APP) situations - Bates M099730690238 - M099730690240;

50. We are the Competition Newsletter dated 05/01/994 - Bates M059702500363 - M059702500368;

51. Gateway to Opportunity - Session I - Part A: Product Knowledge - L-95 manual - Bates M119772110251 - M119772110255;

52. Betty Ruhl's letter to T.M. Labadia re: Automation of the Accelerated Payment Plan (APP) dated 02/09/1987 - Bates MP925000042280 - MP925000042289;

53. Automation of the Accelerated Payment Plan (APP) Memorandum dated 02/21/1987 - Bates M119758940924 - M119758940932;

54. Paid-Up Additions Rider Task Force - July 12, 1987 meeting minutes dated 07/12/1987 - Bates M059703240068 - M059703240080;

55. Lowell H. Lamb's letter to Paid-Up Additions Rider Task Force re: Merchandising of Rider dated 7/22/1987 - Bates MP925000042557 -MP925000042558;

56. e-Mail subj Accelerated Payment Plan - What it is , What isn't It ?? -to field force western dated 10/14/87 - Bates M109749230474 - M109749230475;

57. Frank Dochniak's letter to T. LaBadia re: Accelerated Payment Plan (APP) Arrangements dated 10/21/1987 - Bates MP925000042170;



58. Thomas M. LaBadia's letter to A.F. O'Leary re: Accelerated Payment Plan (APP) dated 11/04/1987 - Bates MP925000042169;

59. Market Conduct Report of Metropolitan Life Insurance Company as of December 27, 1993 issued on February 11, 1994 by the Commonwealth of Pennsylvania Insurance Department; Bate No. MP4011102745-MP4011102961.

60. Report of Investigation into Sales Practices of Metropolitan Life Insurance Company issued on March 6, 1994 by the Florida Insurance Commission; (Bates No. MP4011167635-MP4011167815);

61. Connecticut Market Conduct report of Metropolitan Life;

62. Harold Leff's letter to Branch Managers and District Sales Managers re: Accelerated Payment Plan and Financed by Inforce Policies dated 12/24/1987 - Bates MP925000004819;

63. Accelerated Payment Plan (APP) Arrangement Release dated 01/21/1988 - Bates MLPH875003001376;

64. Accelerated Payment Plan Arrangement - Sales Office Instructions release dated 01/21/1988 - Bates MLPH875003001377 - MLPH875003001383;

65. Accelerated Payment (ACCEL PAY) Arrangement - Sales Office Instructions Manual dated 06/01/1988 - Bates MLPH5004248 - MLPH5004258;

66. Paid-Up Additions Rider MLIC letter dated 06/20/1988 - Bates M099730730749;

67. L-95 and the Competitive Edge letter dated 07/05/1988 from Alan Knepper to The Field Force - Bates M069702430269 - M069702430272;

68. Update to Prod Ref Library for Accelerated Payment Plan (APP) Product Reference dated 08/17/1988 - Bates JJ067389 - JJ067441;

69. Re: Accelerated Payment Plan (APP) Arrangement -release to Field Force dated 8/17/88 - Bates M099730840119 - M099730840120;
70. Lowell H. Lamb's letter to Rebecca Green re: Sales illustrations - ECTA Corporation dated 10/14/1988 - Bates MP925000042630 -MP925000042631;
71. Letter to Rebecca Green re: One Payment Plan Using Paid-up Additions Riders (includes illustrations) dated 11/07/1988 - Bates MP925000042549-MP925000042551;
72. Manual CWS-Procedures for APP Initial Eligibility dated 12/06/1988 - bates MP0004002257- MP0004002286;
73. Re: Accelerated Payment Plan or A.P.P. -to All Customer Service Representatives from Frances Burdex, Teleservices dated 12/13/88- revised - Bates M109766910405 - M109766910406;
74. Manual - (APP) Accelerated Payment Arrangement-Sales Office Instructions dated 03/031/1989 - batesMP0004002232 - MP0004002249;
75. Letter to The Field Force Re: Mechanization of AP Arrangement Life Product Planning dated 03/13/1989 - bates MP0004002229 - MP0004002230;
76. Re: Control of Accelerated Payment Processing -to Policyholders Svcs Managers from Richard Schramm, PI Admin&Information Svcs dated 9/5/89 = decentralization of AP Processing to individual head office admin offices - Bates M119766700164;
77. Manual - Shortest APP - Bates M109731260114 - M109731260121;
78. TrackBook - Two Ways to Stop Paying Premiums - Accelerated Payment and PUAR - Bates M822102551204 - M822102551208;
79. PUAR Marketing Manual Project Review dated 06/19/1990 - Bates MP4011157506 -

MP4011157518;

80. Actuarial memo on APP - Accelerated Payment Plan memo dated 07/12/1990 - Bates M129764330206;

81. The Enricher - also covers APP Campaign material dated 07/30/1990 - Bates M059702040191 - M059702040200;

82. Enricher Software Illustration Guide dated August 1990 - Bates MP4011149771 - MP4011149795;

83. Accelerated Payment (ACCEL PAY) Arrangement - Sales Office Instructions manual dated 09/01/1990 - Bates MLPH5003993 - MLPH5004009;

84. Addendum to PUAR - the Enricher - for Life Cycle Selling (Resource Book M10-M13) dated 9/25/90 - Bates M109759270441 - M109759270447;

85. Re: GET Involved - with the Accelerated Payment Plan -to Field Force from Charles Kavitsky dated 10/1/90 - Bates M109748020367;

86. With the Enricher and the Accelerated Payment Plan...dated 12/1990 - Bates M821800100665 - M821800100682;

87. Accelerated Payment discussion minutes dated 04/01/1991 - Bates M119757590071 - M119757590083;

88. Rebecca Green's letter to Larry Vranka re: Accelerated Payment Arrangement dated 03/30/1992 - Bates MP925000042946 -MP925000042948;

89. AP Eligibility Quotes - dated 4/13/92 - Bates M069702250147 - M069702250149;

90. Rebecca Green's letter to Jerry Ledingham re: Accelerated Payment Plan dated 04/14/1992 - Bates MP925000042944 -MP925000042945;

91. Southeastern Head Office Quantum Illustration Meeting - Training Illustration dated 08/26/1992 - Bates M119772460240 - M119772460268;

92. Guide to Basic Ledger System ( covering each preset sales strategy and how they can best work for you) - Bates M824601530477 - M824601530490;

93. AP Eligibility Quotes - dated 11/05/92 - Bates M069702250128 - M069702250130;

94. Accelerated Payment Cases eMail dated 11/05/1992 - Bates M109734760225"

"Letter from Jim Rayl to a Metropolitan Life Vice-President stating that: We cannot afford to leave policyholders with the impression that AP is a done deal - dated 11/07/1992 - Bates MP4011070961 - MP4011070962;

95. EMail subj AP Eligibility Quotes - to All Sales Offices from Cheryl Fager Dividend Unit - Tulsa - dated 11/23/92 - you should have received notification that another dividend scale change will take place for 1993 - extreme caution when quoting AP Eligibility - Bates M109766910705;

96. Letter from Jim Rayl to Tom LaBadia, a Metropolitan Life Director of Customer Services and Communications regarding Referrals to AP as Paid-Up dated December 7, 1992 bates MP4011071038;

97. AP Processing - dated 12/16/92 - Bates M069702250153;

98. Letter from Jim Rayl to David Martin, a Metropolitan Life Director of Customer Services and Communications to the Vice-President of the MidAmerica Territory regarding Referral of Accelerated Payment Plan as Paid-Up dated December 23, 1992 - bates MP4011071027 - MP4011071029;

99. Letter from Jim Rayl, a Metropolitan Life Director of Customer Services and

Communications to another Customer Services Director, Kathy Schoos regarding Accelerated Payment Plan dated December 31, 1992 - bates MP4011071025;

100. AIMS - Straight Talk about Premiums and APP by Susan Schmidt Burstein - issue 1993-1 - Bates M109766730192 - M109766730197;

101. Article about APP and Reappearing Premiums memo dated 01/15/1993 - Bates MLPH875003001500;

102. Re: AP Quotes on Lapsed Policies - to Customer Service Reps from Lori Grant dated 1/20/93 - system will give you an eligibility quote on Lapsed policies - Bates M109766730191;

103. APP Communications (proactive) letter dated 05/23/1993 - Bates M059701651054 .. M059701651056;

104. Wilhelmenia J. Taylor's letter to Greg Doby re: Accelerated Payment Plan dated 06/02/1993 - Bates MP925000042458 -MP925000042459;

105. re: AP Processing - NWT meeting 10/21-22/93 letter to Mike Levine from Kevin Kirk dated 10/24/93 - Bates M069709350051 - M069709350053;

106. MetLife Product News - November 1993 = Met offers high guarantees and then beats them - Interest rate changes affect MetLife Dividends, APP Review, UL Rate Changes.- Bates M109759270051 - M109759270052;

107. re: A Proposed Strategy for Addressing APP to Michael Levine and Steve Orluck from Willie Taylor and Jacqueline Thoresz dated 11/19/93 - Bates M089709240044;

108. Proposed Strategy for Addressing APP letter dated 11/23/1993 - Bates MP4011003908;

109. APP - Commonly know in the industry as Vanishing Premium - articles - Bates

M059701650930 - M059701650932;

110. Proposed Strategy for Accelerated Payment Plan letter to Jacqueline M. Thoresz from Rebecca H. Greene dated 12/03/1993 - Bates MP4011003488;

111. A Proposed Strategy for the Accelerated Payment Plan (APP) dated 11/18/1993 - Bates MP4011003489 .. MP4011003498;

112. A Proposed Strategy for the Accelerated Payment Plan (APP) by Wilhemenia Taylor and Jacqueline Thoresz 11/18/93 letter dated 12/03/1993 - Bates M059701650939 - M059701650950;

113. Update on the APP Proposal letter dated 12/28/1993 - Bates M059701650926"  
"Update on the APP Proposal - letter dated 12/28/1993 - Bates M059701650927 - M059701650929;

114. Accelerated Payment Plan release dated 01/03/1994 - Bates M059701650495 - M059701650496;

115. Letter Regarding Proposed Strategy for APP dated 1/11/94 - Bates MP4011145513 - MP4011145513;

116. A Proposed Strategy for the Accelerated Payment Plan (APP) by Wilhemenia Taylor and Jacqueline Thoresz 11/18/93 - letter dated 01/12/1994 - Bates M059701650689;

117. J. L. Rayl letter to Robert J. Crimmins, dated 01/19/1994 - Bates MP4011070354 - MP4011070359;

118. Straight Talk about Premiums and APP by Susan Burstein dated 02/01/1994 - Bates M129759740003 - M12975974000;

119. AP Processing - early 1994 items on processing dated 03/06/1994 - Bates M069702250173 - M069702250174;

120. Accelerated Payment Plan - Payment Options letter dated 04/04/1994 - Bates M069700980690 - M069700980695;

121. Vanishing Premiums AP Arrangement, etc note date 04/11/1994 - Bates MP4011003102;

122. Request from Mr.Tweedie Concerning UL Customers with Target Premiums Inadequate to Carry Policies letter dated 04/11/1994 - bates MP4011003103 - MP4011003104;

123. Accelerated Payment Arrangement - Revised APP Policyholder Letters dated 04/18/1994 - Bates M059701650299 - M059701650312;

124. AP letter to Crimmins from FP Lynch dated 5/12/94 - in response to your request to move more quickly on APP notification and eligibility - Bates M069703650863 - M069703650872;

125. The MetLife Sales Practices Guide - Pennsylvania - Bates M069705340031 - M069705340048;

126. Accelerated Payment Arrangement (APP)- Natural Work Team Meeting doc dated 06/07/1994 - Bates M059701650221 - M059701650236;

127. E-Mail date 6/26/94 In the last two weeks we've managed to decelerated the accelerated payment arrangement process - Bates M069702320538;

128. Re: AP Illustrations - letter to Darlene from Cheryl dated 7/19/94 - Theresa Hornsby called to tell me there is definitely a problem with the cash value being guaranteed and she is going to pursue the problem with Marketing, etc. - Bates M069702250267;

129. Vanishing Premium letter from Greg Doby dated 08/02/1994 - Bates M069700100662 - M069700100688;

130. Comments on Draft AP brochure doc dated 08/24/1994 - Bates M059701651128 -

M059701651140;

131. AP NWT conference call summary eMail dated 09/14/1997 - Bates M069702320290;

132. AP Consumer Brochure - Revised Copy dated 09/23/1994 - Bates M069702320233 -  
M069702320243;

133. Letter from Jim Rayl to the Vice-President of Personal Insurance customer service  
Re: Customer Complaint - Changing Dividend Basis dated September 29, 1994 - bates  
MP4011071016;

134. MetLife's Accelerated Payment Arrangement brochure - Bates M059702450432 -  
M059702450441;

135. MetLife's Accelerated Payment Arrangement .. an alternative to paying premiums  
out-of-pocket (10/94 brochure) with 1995 update - Bates M069702250734 - M069702250741;

136. Documents Concerning the APP Natural Work Team dated 10/10/94 - Bates  
MP4011159417 - MP4011159443;

137. AP Consumer Brochure letter dated 10/17/1994 - Bates M069702320201 -  
M069702320202;

138. AP Arrangement dated 10/26/94 as edited by Alan Kandel - sample reports to be  
mailed to policyholders for the Sales Rep's Informational purposes - Bates M069702320215 -  
M069702320219;

139. Letter from Jim Rayl to the Vice-President of a Metropolitan Life customer service  
center Re: Consumer Education Wish List: dated October 28, 1994 - bates MP4011071009-014;

140. MetLife's Accelerated Payment Arrangement Brochure letter dated 11/14/1994 -  
Bates M109734240016 - M109734240017;



141. E-Mail on AP mailing related material - Nov 1994 - will be produced but not mailed  
E-Mail dated 11/22/1994 - Bates M069702320176;

142. Accelerated Pay Paid to Dated Errors eMail dated 12/24/94 during Processing of Dec  
20th - Bates M069702250415;

143. Status of AP Natural Work Team Project and Update on UL I Natural Work Team  
Projects letter dated 12/30/1994 - Bates M059701242899 - M059701242900;

144. Letter from Jim Rayl to the Senior Business Systems Consultant: Traditional Portfolio  
and Dividends for the Personal Insurance line of business dated January 3, 1995 - bates  
MP4011071008;

145. Accelerated Payment and UL I note dated 01/10/1995 - Bates MP4011003105;

146. Accelerated Payment and UL I Notification Status letter dated 12/21/1994 - Bates  
MP4011003106;

147. Collection of AP mailing related material - Dec 1994 release dated 01/10/1995 - Bates  
M069702320139 - M069702320140;

148. AP Arrangement - about notification of policyholders letter dated 01/11/1995 - Bates  
M069702251058 - M069702251062;

149. DWI - Surrender of Value, vanishing premiums software problems with Pay One and  
Done (Accelerated Vanish) letter dated 01/13/1995 - Bates M109712580024;

150. AP NWT - Field Announcement for AP Letters dated 1/19/95 - Bates  
M069703650030 - M069703650047;

151. Collection of AP related material dated Jan, 1995 - includes cost consideration of  
customers brochure - lapse of some policies etc - Bates M069702320440 - M069702320443;

152. Consumer Education Program for APP Arrangement letter dated 02/07/1995 - Bates MP4011003093;

153. Accelerated Payment (AP) arrangements Memorandum dated 02/08/1995 - Bates MP4011003107 - MP4011003108;

154. Consumer Education Program for MetLife's Policyholders on Accelerated Payment (AP) arrangement letter dated 02/15/1995 - Bates MP4011003094 - MP4011003099;

155. AP Arrangement Proposals letter dated 2/19/1995 - bates MP4011003109 - MP4011003110;

156. Re: Consumer Education - Accelerated Payment Arrangement -to Bill Barnewold from Kevin Kirk dated 2/16/95 - takes exception to the four proposals made in Barnewold's Feb 15 letter and offers a fifth proposal.- Bates M109758970393;

157. Re: Consumer Education - Accelerated Payment Arrangement -to Bill Barnewold from Greg Doby dated 2/17/95 - Bates M109758970398;

158. AP Field Letters, several questions about why they are now sending letters etc. eMail dated 02/17/1995 - Bates M129759740127;

159. E-Mail subj Consumer Education / AP -to Bill Barnewold from C.J. Furugia dated 2/27/95 - about mailing to 15,000 policyholders whose policies will collapse before the end of their premium paying period - Bates M109758970387;

160. AP - Sales Release e-mail dated 3/10/95 - Bates M069709350429 .. M069709350431;

161. AP Arrangement Customer Communications release dated 03/10/1995 - Bates M069702251264 - M069702251288;

162. Accelerated Payment (AP)Arrangement Customer Communications letter dated

03/27/1995 - Bates M109711000219;

163. Janet Rightor's e-mail re: New AP Screen dated 04/25/1995 - Bates MP925000042476;

164. Accelerated Payment (AP) Arrangement letter dated 05/01/1998 - Bates MP4011003100 - MP4011003101;

165. New Life Paid-Up at 98 Policy release stating Illustrative Accelerated Payment performance was preserved dated 05/08/1995 - Bates M099760170131 - M099760170132;

166. Accelerated Payment - Customer Feedback Survey results dated 06/15/1995 - Bates MP4011159913; MP4011159915 -MP4011159917; MP4011159920; MP4011159922; MP4011159924; MP4011159926; MP4011159930; MP4011159940; MP4011159942; MP4011159948; MP4011159952; MP4011159956; MP4011159962; MP4011159978; MP4011159984; MP4011160006;

167. Vanishing Premium Letter to Anthony C. Cannatella, Exec VP NYHO from Lawrence Brewster Mktg VP Northeastern Terr. dated 09/01/1995 - Bates M059701650621 - M059701650622;

168. E-Mail from W. Barnewold to Distribution, Subject Customer Education For AP dated 09/13/1995 - Bates MP4011159916;

169. Accelerated Payment Arrangement-Option Program - trackbook script - Bates M119771480001 - M119771480013;

170. Accelerated Payment Arrangement (AP) Option Program letter to The Field Force from Joseph W. Jordan, Sr VP dated 08/18/1997 - Bates MP4011003111 - MP4011003120;

171. 1984 Dividend Scale - U. S. Ordinary Life, 1983 Memorandum - Bates

MP4011004147 - MP4011004148;

172. Meeting of the Executive and Dividend Policy Committee at Home Office January 25, 1983 - Bates MP4011004141 - MP4011004142;

173. page 3 - recommendation for change in Dividend Scale eff 7/1/83 dated 03/08/1983 - Bates MP4011004132 - MP4011004133;

174. Accelerated Payment Plan Illustration letter dated 03/31/1983 - Bates M109748380396;

175. Actuaries' Report on Personal Life Dividends memo dated 04/08/1983 - Bates MP4011004090;

176. Actuary's Report on the Determination of Metropolitans Life's 1982 and 1983 Dividend Scales for Personal Life Insurance in the United States dated 04/08/1983 - Bates MP4011004091 - MP4011004131;

177. Appendix V - Expense Classes procedure dated 04/08/1983 - Bates MP4011004185 - MP4011004186;

178. Appendix VI - Calculation of Dividend Expense Factors procedure dated 04/08/1983 - Bates MP4011004187;

179. U. S. Ordinary Life Dividend Scales for 1984 Memorandum dated 04/14/1983 - Bates MP4011004143 - MP4011004146;

180. The agenda for our meeting at 11:00am on April 26, 1983 Memorandum - Bates MP4011004140;

181. Meeting of the Executive and Dividend Policy Committee at Home Office April 26, 1983 minutes dated 04/26/1983 - Bates MP4011004134 - MP4011004137;

182. May 24, 1983 Meeting of the Board of Directors Dividend Recommendations on Ordinary Life Insurance Policies letter dated 05/14/1983 - Bates MP4011004149 - MP4011004150;
183. Actuarial Statement of Opinion dated 05/17/1983 - Bates MP4011004151;
184. Board Resolution - May 24, 1983 - Dividend on Ordinary Life Insurance Policies - Bates MP4011004152;
185. Board Resolution - May 24, 1983 - Actuaries' Memorandum 83-5 - Bates MP4011004153 - MP4011004157;
186. Capture the Market Update letter dated 08/08/1983 - Bates MP4011004089;
187. Competitiveness of 1984 Ordinary Life Dividend Scales letter dated 09/19/1983 - Bates MP4011004158 - MP4011004159;
188. December 13, 1983 Board of Directors Motion - Bates MP4011004161;
189. 1984 Dividend Scale Recommendations letter dated 03/15/1984 - Bates MP4011004160;
190. 1985 Dividend Scales - U.S. Ordinary Life letter dated 03/27/1984 - Bates MP4011004162;
191. Recommendations for 1985 Dividend Scales - U.S. Ordinary Life letter dated 03/21/1984 - Bates MP4011004163;
192. 1985 Dividend Scales - Ordinary Life Insurance Memorandum dated 03/21/1984 - Bates MP4011004164 - MP4011004178;
193. 1986 Dividend Scales - Ordinary Life Draft Letter dated 03/1985 - Bates MP4011004179 - MP4011004181;
194. Personal Insurance Committee Meeting of June 27, 1986 minutes dated 06/30/1986

- Bates MP4011004182 - MP4011004184;

195. 1987 Dividend Scales - Personal Life Insurance and Annuities Met Life Ins Co release dated 01/12/1987 - Bates MP4011004190 - MP4011004191;

196. 1987 Portfolio - Illustrative Dividends letter dated 10/09/1986 - Bates MP4011004188 - MP4011004189;

197. History of Deferred Income Assets dated 07/01/1987 - Bates MP4011004201 .. MP4011004217;

198. "Ordinary Life Insurance - Proposed 1988 U.S. Dividend Scales Memorandum dated 07/09/1987 - Bates MP4011004192 - MP4011004200;

199. 1988 U. S. Ordinary Dividend Scale letter dated 10/23/1987 - Bates MP4011003849 - MP4011003850;

200. Appendix B - Market the Product not the Illustration DRAFT Release dated 05/1988 - Bates MP4011004225 - MP4011004232;

201. Major Issues - Preliminary Dividend Recommendations 1989 Scale Memorandum dated 05/24/1988 - Bates MP4011003859 - MP4011003867;

202. 1990 Dividend Recommendations - Personal Lines of Business - Preliminary Proposal letter dated 05/31/1988 - Bates M099717300577 - M099717300578;

203. Background Memorandum 1989 Dividend Proposals dated July 24, 1988 - bates M019817630445 - M019817630452;

204. Major Pros and Cons regarding a dividend reduction for 1990 letter dated 05/30/1989 - Bates MP4011003868 - MP4011003869;

205. Preliminary Dividend Recommendations 1990 Dividend Scales - United States

Business letter dated 07/12/1989 - Bates MP4011003870 - MP4011003873;

206. Preliminary Dividend Recommendations 1990 Dividend Scales - United States  
Business letter dated 07/13/1989 - Bates MP4011003874 - MP4011003878;

207. Schedule M from the Annual Statement for the Year 1989 - Bates MP925000000850  
- MP925000000854;

208. Final Dividend Recommendation 1990 Scales 03/1990 draft - Bates M019817630062  
- M019817630067;

209. Increase in Withdrawals From Dividend Balances Memorandum dated 03/22/1990  
- Bates MP4011003835;

210. Withdrawals of Additional Insurance Dividend Balances fax dated 03/23/1990 - Bates  
MP4011003834;

211. Annual Report 1989 - FIP liberalization footnote letter dated 03/26/1990 - Bates  
MP4011003832 -MP4011003833;

212. Final Dividend Report to Management US Ordinary Life - 1990 Scales - dated  
03/30/1990 - Bates M099717350202 - M099717350208;

213. 1990 Dividend Scale - Question-and-Answer Guide letter dated 04/06/1990 - Bates  
M109734240129 - M109734240131;

214. 1991 Dividend Recommendations letter dated 05/07/1990 - Bates MP4011003879 -  
MP4011003883;

215. Preliminary Recommendations ....letter date 06/07/1990 - Bates MP4011003884 -  
MP4011003886;

216. US PLI 1991 Dividend Scales letter dated 06/11/1990 - Bates MP4011003887 -

MP4011003892;

217. 1991 Dividend Scales - Preliminary Discussion Points Memorandum dated 05/10/1991 - Bates MP4011003893 - MP4011003898;

218. Minutes from Chairman's Planning Board Meeting dated 07/01/1991 - Bates MP925000014218 -MP925000014224;

219. Re: Text for Schedule M -to Angel Goldman from Patricia Guerin dated 9/9/91, Bates M109758540090;

220. re: Text for Schedule M -to Angel Goldman from Patricia Guerin dated 9/9/91, Bates M109758540089;

221. Re: Schedule M letter dated 09/24/1991 - Bates M109758540087;

222. Personal Insurance Dividends letter dated 10/15/1991 - Bates MP4011003899;

223. 1992 Dividend Scales for Personal Insurance and Annutites letter dated 10/15/1991 - Bates MP4011003900 - MP4011003907;

224. Schedule M - Statement of Actuarial Opinion, etc.dated 11/11/1992 - Bates M109759440209;

225. History of MetLife's Ordinary Annual Dividend Scales - bates M129740290134 - M129740290137;

226. Schedule M - General Interrogatories - 1994 - Bates M069704780614;

227. MetLife's Historical Credited Dividend Rates dated April 11, 1994 - bates M069702170274 - M069702170276; MP925000296367;

228. MetLife's Historical Credited Dividend Rates dated April 11, 1994 - bates M069702170274 - M069702170276; MP925000296367;



229. A Chart Comparing MetLife's Historical Credited and Illustrated Dividend Rates By Year - developed from Bates M0697021270274 - M069702120276 and MP925000296367;
230. Sales Illustrations - Explanation Page - Bates MP4011003082;
231. Approved Policy Illustration Software letter dated 09/30/1994 - Bates MP4011003083 - MP4011003084;
232. Schedule M - Statement of Actuarial Opinion, Etc.dated 11/23/1994 - Bates M069704780621 - M069704780622;
233. Memorandum from Anthony C. Cannatella to Field Force Re: 1996 Dividend Scale dated October 25, 1995. - Bates M059701060025;
234. Annual Statement of Metropolitan Life Insurance Company for the year ending 12/31/1988 - Bates MP925000001086 - MP925000001142;
235. Annual Statement of Metropolitan Life Insurance Company for the year ending 12/31/1989 - Bates MP925000000538 -MP925000000870;
236. Annual Statement of Metropolitan Life Insurance Company for the year ending 12/31/1989 - Bates MP925000001028 - MP925000001085;
237. Annual Statement of Metropolitan Life Insurance Company for the year ending 12/31/1990 - Bates MP925000000203 - MP925000000537;
238. Annual Statement of Metropolitan Life Insurance Company for the year ending 12/31/1990 - Bates MP925000000883 - MP925000000946;
239. Annual Statement of Metropolitan Life Insurance Company for the year ending 12/31/1991 - Bates MP925000001143 - MP925000001604;
240. Annual Statement of Metropolitan Life Insurance Company for the year ending

12/31/1992 - Bates M550100004505 - M550100005048;

241. Annual Statement of Metropolitan Life Insurance Company for the year ending  
12/31/1993 - Bates M550100005049 - M550100005519;

242. MetLife 1994 Annual Report Highlights-Bates stamp documents- HAZEN001030  
thru HAZEN001033;

243. Annual Report of Metropolitan Life Insurance Company for the year ending  
12/31/1995 - Bates MP925000012524 - MP925000012579;

244. Annual Statement of Metropolitan Life Insurance Company for the year ending  
12/31/1996 - Bates MP925000012429 - MP925000012523;

245. Annual Report of Metropolitan Life Insurance Company for the year ending  
12/31/1996 - Bates MP925000012580 - MP925000012633;

246. Annual Statement of Metropolitan Life Insurance Company for the year ending  
12/31/1999 - Bates MP4011133001 - MP4011134640;

247. Annual Statement of Metropolitan Life Insurance Company for the year ending  
12/31/2000 - Bates MP4011134641 - MP4011135440;

248. Annual Statement of Metropolitan Life Insurance Company for the year ending  
12/31/2001 - Bates MP925000326537 - MP925000327332;

249. Annual Report of Metropolitan Life Insurance Company for the year ending  
12/31/2001 - Bates MP925000327333 - MP925000327413;

250. Annual Report of Metropolitan Life Insurance Company for the year ending  
12/31/2002 - Bates Hazen\_001100 - Hazen\_001193;

251. Annual Report of Metropolitan Life Insurance Company for the year ending

12/31/2003 - Bates Hazen\_001194 - Hazen\_0011290;

252. Form 10-K for 2004 of the Annual Statement for METLIFE, Inc.-Bates stamp documents - HAZEN000635 thru HAZEN000986;

253. Bates No. MP0004026568-Video Tape of MetLife APP Research-Four Focus Groups;

254. Universal Life Interest Rates (Bates No. M109759650267);

255. Re:a report "A Proposed Strategy for the Accelerated Payment Plan (APP) Bates No. M069702320835-M069702320844.

256. Deposition Transcript of Michael Levine, dated July 22, 1999 and the exhibits, (Bates No. MP4011003499-MP4011003918.

257. Deposition Transcript of David Levene dated July 28, 1999, and the exhibits, (Bates No. MP4011003919-MP4011004303)

258. Memo from L. Michelle Ligon, J.D., Manager, Advanced Sales & Consulting Services, Metropolitan Life Insurance Company to Southeastern Associates, Dated January 5, 1989, (Bates No. M821100440650)

259. Deposition Transcript of Wilhelmenia Taylor in Innat v. Metropolitan Life Insurance Company, et al. dated September 26, 2002 and all exhibits thereto.

260. Deposition Transcript of Wilhelmenia Taylor dated October 1, 2002 in Innat v. Metropolitan Life Insurance Company, et al. and all exhibits thereto.

261. Deposition of Anthony Cannatella and Exhibits dated December 14, 1994 (Bates No. 4011016193-16330)

262. Deposition of Robert Crimmons dated December 15, 1994 and exhibits (Bates Stamp numbered MP4011016331-16435)(Bates No. MP4011105606-105634)

- 263. VHS Tape-Metro News, September 1988 (Bates No. M8227000100010022)
- 264. VHS Tapes MetLife News Volume I 1986 (Bates No. M824201520048)
- 265. VHS Tapes MetLife APP Research-Four Focus Groups (Bates No. MP0004026568)
- 266. December 19, 1997, Letter from Daniel F. Harrigan, Program manger, Market Conduct Division, State of Connecticut to Harry P. Kamen, Bates No. MP925000316310-311.
- 267. State of Connecticut Insurance Department Stipulation and Consent Order, Bates No. MP925000229200-207.
- 268. November 29, 1993 Memorandum from Mike Levine to Anthony Amodeo, Bates No. MP92500075172-174.
- 269. Chart of Recently Closed, Open or Upcoming Investigations of Metropolitan Life, Bates No. MP925000170486-487.
- 270. Chart of MetLife State Fines and Forfeitures 2000, Bates No. MP925000327415-416.
- 271. MetLife Corporate Internal Audit - Individual Business - Ethics and Compliance Bates No. MP925000017436-440.
- 272. MetLife Corporate Internal Audit - Audit of Policy Illustrations Compliance Bates No. MP925000156670-675
- 273. "MetLife Enhanced Ethics and Compliance Program Status Report dated January 1995 - Bates M933400010028 .. M933400010040"
- 274. Business Ethics Project Preliminary Report for MetLife Personal Insurance October 3, 1990 Revised October 9, 1990 by Beverly Loy Taylor - Bates No. MP4011145057 - MP4011145067
- 275. Business Ethics Project for MetLife Personal Insurance November 7, 1990 by Beverly

Loy Taylor - Bates No. MP4011145015 .. MP4011145028

276. James L. Rayl Personal Insurance Development Review for 1991 - Bates No MP4011069740 .. MP4011069741

277. 1992 Accomplishments & Programs Customer Services & Communications, MetLife Customer Service Center - Tulsa - Bates MP4011069726 .. MP4011069739

278. Mike Levine's Nov 29, 1993 letter to Anthony Amodeo, Re: Inforce Universal Life and Single Premium - Bates No MP925000075172 .. MP925000075174

279. Deposition of James L. Rayl in James L. Rayl vs. Metropolitan Life Insurance Co., Inc. taken on February 25, 1998 - bates MP4011069546 through MP4011071493 including exhibits 1 through 54

280. Deposition of James L. Rayl in James L. Rayl vs. Metropolitan Life Insurance Co., Inc. taken on April 13, 1998 - bates MP4011050061 through MP4011050078 including exhibits 55 through 58 - bates MP4011103537 through MP4011103564

281. Transcript of Testimony of Crosby Engel in Lesoon v. MetLife, April 14-15, 2003 Volume II, pp 233-293; Volume III, pp 295-320

282. Payment History for Policy No. 915-409-338; (Bates No. MP24610000274-284);

283. In Force Illustration for Policy No. 915-409-338, prepared on March 26, 2003; (Bates No. MP24610000293-298);

284. Payment History for Policy No. 945-600-948-M; (Bates No. MP24610000326-333);

285. In force Illustration for Policy No. 945-600-948-M; (Bates No. MP24610000342-347);

286. FIP agency reports; (MP24610000368-413);

287. Letter from James Nagy to Gary Antonino dated March 24, 1994; (Bates No. MP24610001615-1617);

288. Memorandum from Kenneth Kaczmarek dated July 11, 1998; Bates No. MP24610001737-1739);

289. All exhibits listed in Defendants' Pre-Trial Statement.

#### **LIABILITY WITNESSES**

1. A representative of Metropolitan Life who can authenticate any documents provided by Metropolitan Life to Plaintiff in discovery as business records produced by Metropolitan Life to Plaintiffs
2. Robert Wyckoff  
505 Heritage Lane  
Murrysville, PA 15668
3. Kenneth Kaczmarek  
c/o B. John Pendleton, Jr., Esquire  
McCARTER & ENGLISH, LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, NJ 07101-0652
4. Theodossios Athanassiades  
4436 Province Line Road  
Princeton, NJ 08540
5. Rebecca Greene  
9 Belair Road  
Norwalk, CT 06850-3323
6. Harry Kamen  
Town Line Road  
Wainscott, NY 11975
7. Beverly Loy Taylor

5747 Woodmont Street  
Pittsburgh, PA 15217

8. James L. Rayl  
1824 South Gardenia Ave.  
Broken Arrow, OK 74012
9. Wilhelmenia J. Taylor  
c/o B. John Pendleton, Jr., Esquire  
McCARTER & ENGLISH, LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, NJ 07101-0652
10. Gregory Doby  
c/o B. John Pendleton, Jr., Esquire  
McCARTER & ENGLISH, LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, NJ 07101-0652
11. Robert J. Crimmons  
c/o B. John Pendleton, Jr., Esquire  
McCARTER & ENGLISH, LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, NJ 07101-0652
12. David A. Levene  
c/o B. John Pendleton, Jr., Esquire  
McCARTER & ENGLISH, LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, NJ 07101-0652
13. Michael Levine  
c/o B. John Pendleton, Jr., Esquire  
McCARTER & ENGLISH, LLP  
Four Gateway Center  
100 Mulberry Street  
Newark, NJ 07101-0652
14. Any and all Defendants' witnesses

Plaintiffs reserve the right to supplement this list.

#### **DAMAGE WITNESSES**

1. See List Above.

#### **EXPERT WITNESS**

1. Robert Carter  
130 Dorsey Station Road  
Louisville, KY 40223

#### **DAMAGES**

Compensatory Damages as set forth in the expert report of Robert Carter.

Statutory treble damages, costs, counsel fees, exemplary or punitive damages in addition, and such other relief as the court deems necessary and proper.

Plaintiff reserve the right to supplement the Pre-Trial Statement up until the time of trial.

Respectfully submitted,  
BEHREND AND ERNSBERGER, PC

/s/Kenneth R. Behrend  
Kenneth R. Behrend  
Pa. ID No. 37961  
BEHREND AND ERNSBERGER, PC  
306 Fourth Avenue Suite 300  
Pittsburgh, PA 15222  
(412) 391-2515  
(412) 391-2762 (facsimile)



**CERTIFICATE OF SERVICE**

I, Kenneth R. Behrend hereby certify that a true and correct copy of the foregoing Plaintiff's Pre-Trial Statement has been served upon all counsel of record by U.S. first-class mail, postage pre-paid or hand delivery on this 1st day of May, 2006, to the following:

B. John Pendleton, Jr., Esquire  
McCARTER & ENGLISH, LLP  
Four Gateway Center  
100 Mulberry Street  
P.O. Box 652  
Newark, NJ 07101-0652

/s/Kenneth R. Behrend  
Kenneth R. Behrend  
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